

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RYAN TRAGOSZANOS,

Plaintiff,

v.

Case No. 09-C-1028

CITY OF ALGOMA, NEIL DORNER,
and JOHN ALLEN,

Defendants.

ORDER

On October 7, 2010 Ryan Tragoszanos (“Plaintiff”) filed a motion to compel discovery after repeated unsuccessful attempts to obtain discovery from the City of Algoma, Neil Dorner, and John Allen (“Defendants”). (Dkt. 13.) On October 15, 2010 Defendants responded by filing a one page letter suggesting that the motion to compel be held in abeyance while Defendants provide additional discovery. (Dkt 15.) Defendants short letter indicates the presence of “some unfortunate miscommunication” between the parties but does not otherwise justify their failure to respond to Plaintiff’s discovery request. Nor does Defendant take issue with Plaintiff’s representation that Plaintiff made efforts to obtain the discovery without court action.

While the parties have worked out most of their discovery issues, Plaintiff’s Reply Brief (Dkt. 16) notes that several issues remain. Defendant Dorner has not provided the sworn and signed responses to interrogatories that are the subject of Plaintiff’s motion to compel. Plaintiff also has not yet received a response to Requests for Production 1 and 3 from Plaintiff’s First Set of Discovery to Defendants which is also subject to Plaintiff’s motion to compel. Prior to the motion

to compel, Counsel for Defendants had responded to Requests for Production 1 and 3 on June 17, 2010 by indicating that “[c]ounsel is arranging a copy of the recording, which is on a cd.” (Dkt.14-2 at 3.) Plaintiff does not yet have a copy of this compact disc. Defendants provide no reason why Plaintiff’s motion to compel should not be granted.

Fed. R. Civ. P. 37(a) requires this Court to award expenses and attorney’s fees when disclosure or discovery is provided after a motion to compel is filed. Here, not only did Defendants provide discovery after Plaintiff filed his motion to compel, but Defendants have still not fully complied with the motion to compel or properly objected to it. Accordingly, and for the reasons set forth above, the motion is **GRANTED**. Defendant Dorner is ordered to sign and swear to his responses to the interrogatories that are the subject of Plaintiff’s motion to compel. Counsel for Defendants is ordered to provide Plaintiff with a copy of the compact disc recording referenced in Requests for Production 1 and 3 from Plaintiff’s First Set of Discovery to Defendants. Finally, because I see no reason why Defendants’ failure to comply was substantially justified, I order Defendants and Counsel for Defendants to pay Plaintiff’s reasonable expenses incurred in making the motion, including attorney’s fees.

SO ORDERED this 2nd day of November, 2010.

s/ William C. Griesbach
William C. Griesbach
United States District Judge